

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION - DAYTON**

In re:) Chapter 11
)
DT INDUSTRIES, INC., et al.¹) Case No. 04-_____
) (Jointly Administered)
Debtors.)
) Honorable _____

**DEBTORS' MOTION FOR ORDER AUTHORIZING (I) CONTINUED
MAINTENANCE OF EXISTING BANK ACCOUNTS; (II) CONTINUED USE OF
EXISTING CASH MANAGEMENT SYSTEM; (III) CONTINUED USE OF EXISTING
BUSINESS FORMS; (IV) CONTINUATION OF INTER-COMPANY TRANSACTIONS;
AND (V) RELIEF FROM STRICT COMPLIANCE WITH 11 U.S.C § 345(b)**

The above captioned debtors and debtors in possession (collectively, the "Debtors"), hereby move this Court for entry of an order authorizing (a) continued maintenance of existing bank accounts; (b) continued use of existing cash management system; (c) continued use of existing business forms; (d) continuation of inter-company transactions; and (e) relief from strict compliance with 11 U.S.C. §345(b). This Motion is based on the Affidavit of John M. Casper filed contemporaneously herewith. In support of the Motion, the Debtors respectfully represent as follows:

I. JURISDICTION

1. The Court has jurisdiction over this Motion under 28 U.S.C. §§157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The other debtors and debtors-in-possession include the following: Vanguard Technical Solutions, Inc., Mid-West Automation Enterprises, Inc., Mid-West Automation Systems, Inc., Assembly Technology and Test, Inc., Detroit Tool and Engineering Company, Advanced Assembly Automation, Inc., Assembly Machines, Inc., Hansford Manufacturing Corporation, DTI Leominster Subsidiary, Inc., DTI Pennsylvania

(continued)

2. The statutory predicates for the relief requested herein are sections 105, 345 and 363 of title 11 of the United States Code (the “Bankruptcy Code”).

II. INTRODUCTION

3. On May 12, 2004 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate their businesses and manage their affairs as debtors-in-possession.

4. No trustee, examiner or committee has been appointed in these chapter 11 cases.

III. BACKGROUND

A. Company Overview

5. Debtor, DT Industries, Inc. (“DTI”) is an engineering-driven designer, manufacturer, and integrator of automated production equipment and systems used to manufacture a variety of industrial and consumer products. Headquartered in Dayton, Ohio, DTI is a Delaware corporation that was formed in 1992. Through its operating subsidiaries, DTI maintains operations throughout the Midwestern U.S., as well as the United Kingdom and Germany.

6. Customers of DTI are found in a wide variety of industries, including automotive, appliance and consumer products manufacturing, electronics, and computers, as well as a diverse group of other industrial manufacturers. DTI maintains a significant foothold in each of these end-markets, serving a high quality customer base of Fortune 500 companies through its industry-leading product quality and engineering capabilities. In addition, DTI’s custom machine building capabilities,

(continued from previous page . . .)

Subsidiary, Inc., DTI Massachusetts Subsidiary, Inc., DTI Lebanon Subsidiary, Inc., and DT Resources, Inc.

which are a critical component of its customers' overall manufacturing processes, include engineering, project management, machining and fabrication of components, installation of electrical controls, and final assembly and testing.

7. DTI's operations are composed of two separate operating segments – Assembly and Test and Detroit Tool & Engineering. The Assembly and Test operating segment is composed of Advanced Assembly Automation, Inc. (“AAA”), Assembly Technology & Test, Inc. (“AT&T”) (both direct, wholly-owned subsidiaries of DTI), DT Assembly and Test GMBH, a German limited liability corporation that is a direct, wholly-owned subsidiary of DTI, and DT Assembly & Test Limited, an English corporation that is an indirect, wholly-owned subsidiary of DTI. The business units in the Assembly and Test segment design and build custom assembly systems, electrified monorail material handling systems, fuel injection, engine and transmission test systems, and lean assembly systems primarily for customers in automotive-related and heavy equipment markets. The businesses in DTI's Assembly and Test segment work closely with their customers to design, engineer, assemble, test, and install equipment that meets the customers' manufacturing objectives. Purchase contracts typically include equipment design, and customers often retain rights to the design after delivery of the equipment. However, DTI often reapplies the engineering and manufacturing expertise gained in designing and building equipment in projects for other customers.

8. The Detroit Tool & Engineering operating segment consists of Detroit Tool and Engineering Company (“DTE”), a direct, wholly-owned subsidiary of DTI which manufactures special machines, automated systems, tooling and fixturing, and the Peer^(TM) brand of automated welding equipment. DTE's products serve a wide variety of markets, including appliances, electronics, building construction, hardware, cosmetics, healthcare, and automotive. DTE's special automation equipment incorporates engineering capabilities ranging from refining and replicating

existing equipment, to designing and building new equipment. DTE provides systems integration and implements a wide range of applications including, dials, power and free, synchronous, indexing processes, metal forming, welding, and robotics.

9. The Debtors have approximately 481 employees, 15 of whom are at the corporate level. The Debtors' workforce is composed of 225 hourly and 256 salaried workers. The Debtors' workforce is highly skilled, with approximately one-third of its employees at all levels possessing an engineering background.

B. Prepetition Financing

10. DTI, DT Industries (UK) II, Limited, DT Assembly and Test GMBH, Kalish, Inc., and DT Canada, Inc., as borrowers (the "Borrowers"), and U.S. Bank National Association f/k/a Firststar Bank, N.A., Bear Sterns & Co., Hourglass Master Fund, Ltd., The Bank of Nova Scotia, William E. Simons & Sons Special Situation Partners, L.P., National City Bank and Oz Special Master Fund, Ltd., as lenders (collectively, with Bank of America, N.A. (formerly Nations Bank, N.A.), the "Lenders"), and Bank of America, N.A., as a lender and agent for the Lenders, are parties to that certain Fourth Amended and Restated Credit Facilities Agreement dated as of July 21, 1997 (as amended and supplemented from time to time, the "Credit Facilities Agreement"), pursuant to which the Lenders have provided to the Borrowers credit facilities and other financial accommodations. Under the terms of the Credit Facilities Agreement, the Borrowers had an aggregate commitment of \$175 million (\$10 million of term loans and \$165 million of revolving loans), which has, through subsequent amendments to the Credit Facilities Agreement, been reduced to \$33.182 million.

11. The Credit Facilities Agreement is secured by pledges of all of the shares of common stock of Borrowers' North American subsidiaries, 65% of the equity of Borrowers' European subsidiaries, and security interests in all of Borrowers' U.S. and Canadian assets including, but not

limited to, all accounts, inventories, machinery, equipment and intangible assets, as well as mortgages on real property located in Saginaw, Michigan, Benton Harbor, Michigan, and Lebanon, Missouri.

12. The Credit Facilities Agreement requires quarterly commitment reductions of \$1.5 million with additional commitment reductions under certain circumstances. The Borrowers must repay amounts outstanding under the Credit Facilities Agreement to the extent the outstanding principal amount (including the face amount of outstanding letters of credit issued under the Credit Facilities Agreement) exceeds the Lenders' aggregate commitment after the required quarterly commitment reductions. As of May 10, 2004, there was a total of \$32.781 million outstanding under the Credit Facility Agreement, which amount includes \$1.967 million of letters of credit issued by the Lenders.

13. In addition to the credit facilities under the Credit Facilities Agreement, DTI, through DT Capital Trust, issued \$70 million in 7.16% Term Interest Deferrable Equity Securities ("Tides") in 1997, of which \$35 million in principal amount remain outstanding.

C. Events Leading to the Filing of these Chapter 11 Cases

14. Over the last several years, the Debtors have experienced deteriorating financial performance as a result of depressed economic activity and lower capital goods spending by their customers. As a result of their cash and revenue crisis, the Debtors have had difficulty meeting the financial covenants under the Credit Facilities Agreement, and failed to make timely prepayments required under the Credit Facilities Agreement as of December 31, 2003 and March 31, 2004. As part of an effort to restructure its finances, in 2002, DTI converted \$35 million of the Tides to equity, raised approximately \$22 million in additional equity, repaid a portion of the debt owed under the Credit Facilities Agreement, and extended the maturity thereof to July 2, 2004. Beginning in 2002 and continuing thereafter, the Debtors executed additional significant restructuring strategies including

expense reduction initiatives, facilities closings, and divestitures that resulted in the sale of substantially all of the assets of DTI's Converting Technologies and Packaging Systems businesses in early 2004 and application of the proceeds to reduce the debt under the Credit Facilities Agreement. The Debtors are currently in default under their Credit Facilities Agreement due to the above-referenced failure to make timely required principal payments on December 31, 2003 and March 31, 2004. The Debtors are also currently in violation of several financial and other covenants under the Credit Facilities Agreement. The Debtors have been unable to negotiate a waiver of defaults or forbearance from the Lenders or obtain a replacement credit facility to replace their existing Credit Facilities Agreement, which expires July 2, 2004. The Debtors have no availability under the Credit Facilities Agreement's revolving line and have been operating since January 1, 2004 through the management of their operating cash flow. The inability of the Debtors to access their credit facility has impaired their ability to obtain new customer orders and to pay vendors that have provided components and services on credit for completed projects. The Debtors' ability to meet their short-term liquidity needs and debt obligations have been materially adversely affected by a drop in new orders that are customarily accompanied by advance payments from customers.

15. The declining market and the Debtors' concomitant loss of revenue has made it difficult for the Debtors to continue operations and, at the same time, service their debt under the Credit Facilities Agreement. As a result, these chapter 11 filings were necessary.

IV. RELIEF REQUESTED

16. By this Motion, the Debtors seek entry of an order authorizing (a) continued maintenance of existing bank accounts; (b) continued use of existing cash management system; (c) continued use of existing business forms; (d) continuation of inter-company transactions; and (e) relief from strict compliance with 11 U.S.C. § 345(b).

V. BASIS FOR THE RELIEF REQUESTED

A. The Debtors Should be Granted Authority To Maintain their Existing Bank Accounts and Cash Management System

17. The Office of the United States Trustee has established certain operating guidelines for debtors-in-possession in order to supervise the administration of chapter 11 cases. These guidelines require chapter 11 debtors to, among other things: (a) close all existing bank accounts and open new debtor-in-possession bank accounts, (b) establish one debtor in possession account for all estate monies required for the payment of taxes, including payroll taxes, (c) maintain a separate debtor-in-possession account for cash collateral, and (d) obtain checks for all debtor-in-possession accounts which bear the designation “Debtor-In-Possession,” the bankruptcy case number, and the type of accounts. These requirements are designed to provide a clear line of demarcation between prepetition and postpetition transactions, and operations, and prevent the inadvertent postpetition payment of prepetition claims.

B. Banking Structure and Cash Management System

18. In the ordinary course of business, the Debtors maintain a sophisticated banking structure consisting of one master account, and separate deposit and disbursement “zero balance” accounts used by various Debtors (the “Bank Accounts,” a complete listing of the Bank Accounts are attached hereto as Exhibit A). All funds deposited into the deposit accounts are transferred to the master account on a daily basis. Funds that are required for disbursement are transferred from the master account to the respective disbursement accounts as needed. Through the Bank Accounts, the Debtors manage their receivables, disbursements, and flow of funds. Maintenance of the Bank Accounts in their respective locations is essential to the Debtors’ ability to transact business without significant interruption.

C. The Debtors Should be Granted Authority to Continue to Use Existing Bank Accounts

19. The Debtors seek a waiver of the United States Trustee's requirement that the Bank Accounts be closed and that new postpetition bank accounts be opened. In order to avoid delays in payments to administrative creditors, to ensure as smooth a transition into chapter 11 as possible with minimal disruption, it is essential that the Debtors be permitted to continue to maintain their existing Bank Accounts. Furthermore, the operation of the Debtors' businesses requires that their cash management system continue during the pendency of these chapter 11 cases. Requiring the Debtors to adopt new cash management systems would be expensive, administratively difficult, and very disruptive to the Debtors' operations. Consequently, maintenance of the existing cash management system is not only essential, but is in the best interest of all creditors and other parties-in-interest.

D. The Debtors Should be Granted Authority to Continue to Use Existing Business Forms and Checks

20. In order to minimize expenses, the Debtors also request that they be authorized to continue to use all correspondence, business forms (including, but not limited to, letterhead, purchase orders, invoices, etc.) and checks existing immediately prior to the Petition Date, without reference to the Debtors' status as debtors-in-possession.

21. Parties doing business with the Debtors' will likely be aware of the Debtors' status as chapter 11 debtors-in-possession. Changing correspondence and business forms will be unnecessary and burdensome to the Debtors' estates and expensive and disruptive to the Debtors' business operations. For these reasons, the Debtors request that they be authorized to use existing checks and business forms without being required to place the label "debtor-in-possession" on each until the existing stock has been depleted. If and when the existing stock

has been depleted, the Debtors will order business forms and checks with the designation “debtor-in-possession.”

22. If the Debtors are not permitted to maintain and utilize their Bank Accounts and continue to use their Existing Business Forms, the resultant prejudice will include: (a) disruption in the ordinary financial affairs and business operations of the Debtors; (b) delay in the administration of the Debtors’ estates; and (c) cost to the estates to set up new systems and open new accounts, print new business forms and immediately print new checks.

E. The Debtors Should be Authorized to Continue Inter-company Transactions

23. As a crucial part of their ordinary course operations, the Debtors transfer funds among themselves to pay for the inter-company provision of essential goods and services (the “Inter-company Transactions”).

24. The Inter-company transactions are reflected either as general ledger entries in the particular Debtors’ books and records or as loans evidenced by notes, as appropriate. Such bookkeeping and documentation provide ample records of Inter-company Transactions.

25. In the exercise of their reasonable business judgment, the Debtors’ believe that maintenance of these operations is absolutely essential to the preservation of the going concern value of the Debtors. The relief requested herein is necessary because Inter-company Transactions are integral to the Debtors’ daily operations and certain Debtors may require inter-company advances in order to maintain their liquidity and going concern values.

F. Cause Exists for Relief From Strict Compliance with 11 U.S.C. § 345(b)

26. The Debtors seek an order for relief from the deposit and investment requirements set forth in section 345(b) of the Bankruptcy Code. In the exercise of their reasonable business

judgment, the Debtors believe that the funds of their bankruptcy estates are properly safeguarded at their banks and that the spirit of 11 U.S.C. 345(b) is fully satisfied.

27. Based on the foregoing, the Debtors submit that the relief requested is necessary and appropriate, is in the best interests of their estates and creditors, and should be granted in all respects.

28. If necessary, the Debtors will offer the testimony of Stephen J. Perkins, President & CEO of DT Industries, Inc., in support of this Motion.

VI. NOTICE AND PRIOR MOTIONS

29. Notice of this Motion has been given to the United States Trustee, counsel for the Lenders, and each of the twenty largest unsecured creditors of each Debtor at their respective last known addresses. In light of the nature of the relief requested herein, the Debtors submit that no further notice of the Motion is necessary or required.

30. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached to this Motion: (a) authorizing the continued maintenance of existing bank accounts; (b) authorizing the continued use of existing cash management system; (c) authorizing the continued use of existing business forms; (d) authorizing the continuation of inter-company transactions; (e) authorizing relief from strict compliance with 11 U.S.C. § 345(b); and (f) granting such other and further relief as the Court deems just and proper.

Dated: _____, 2004

Respectfully Submitted,

DT INDUSTRIES, INC., ET AL.

By: _____ s/ Julia W. Brand
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION - DAYTON**

In re:) Chapter 11
)
DT INDUSTRIES, INC., et al.¹) Case No. 04-_____
) (Jointly Administered)
Debtors.)
) Honorable _____

**DEBTORS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ORDER
AUTHORIZING (I) CONTINUED MAINTENANCE OF EXISTING BANK
ACCOUNTS; (II) CONTINUED USE OF EXISTING CASH MANAGEMENT SYSTEM;
(III) CONTINUED USE OF EXISTING BUSINESS FORMS; (IV) CONTINUATION OF
INTER-COMPANY TRANSACTIONS; AND
(V) RELIEF FROM STRICT COMPLIANCE WITH 11 U.S.C. § 345(b)**

The above captioned debtors and debtors in possession (collectively, the “Debtors”) submit this Memorandum of Law (“Memorandum”)² in support of their Motion for an Order authorizing (a) continued maintenance of existing bank accounts, (b) continued use of existing cash management system, (c) continued use of existing business forms, (d) continuation of inter-company transactions, and (e) relief from strict compliance with 11 U.S.C. §345(b).

I. FACTUAL BACKGROUND

The factual support for this Memorandum is set forth in the Motion, which may be supplemented by testimony at the hearing on the Motion.

¹ The other debtors and debtors-in-possession include the following: Vanguard Technical Solutions, Inc., Mid-West Automation Enterprises, Inc., Mid-West Automation Systems, Inc., Assembly Technology and Test, Inc., Detroit Tool and Engineering Company, Advanced Assembly Automation, Inc., Assembly Machines, Inc., Hansford Manufacturing Corporation, DTI Leominster Subsidiary, Inc., DTI Pennsylvania Subsidiary, Inc., DTI Massachusetts Subsidiary, Inc., DTI Lebanon Subsidiary, Inc., and DT Resources, Inc.

² All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

II. LEGAL ARGUMENT

A. Continued Maintenance of Existing Bank Accounts

In numerous chapter 11 cases, courts have recognized that strict enforcement of the requirement that a debtor-in-possession close its bank accounts does not serve the rehabilitative process of chapter 11. Courts routinely have waived the strict enforcement of bank account closing requirements and replaced them with alternative procedures that provide the same protection. *See In re UAL Corporation.*, Case No. 02-B-48191 (ERW) (Bankr. N.D. Ill. Dec. 9, 2002) (authorizing *inter alia*, the continued postpetition use of the Debtor's existing bank accounts); *In re National Steel Corp.*, Case No. 02-08699 (Bankr. N.D. Ill. March 6, 2002); *see also, In re US Airways Group, Inc.*, Case No. 02-83984 (SSM) (Bankr. E.D. Va. August 12, 2002); *In re Global Crossing Ltd.*, Case No. 02-40187 (REG) (Bankr. S.D.N.Y. May 17, 2002); *In re Enron Corp.*, Case No. 01-16034 (MG) (Bankr. S.D.N.Y. December 3, 2001); *In re Harnischfeger Industries, Inc.*, Case No. 99-2171 (P1W) (Bankr. D. Del. June 7, 1999).

B. Continued Use of Cash Management System

The continued use of cash management systems employed in the ordinary course of a debtor's prepetition business has also been approved as a routine matter in other cases. *In re National Steel Corp.*, Case No. 02-08699 (JHS) (Bankr. N.D. Ill. March 6, 2002); *In re Kmart Corp.*, Case No. 02-02474 (SS) (Bankr. N.D. Ill. Jan. 25, 2002); *see also, In re US Airways Group, Inc.*, Case No. 02-83984 (SSM) (Bankr. E.D. Va. August 12, 2002); *In re Global Crossing Ltd.*, Case No. 02-40188 (REG) (Bankr. S.D.N.Y. May 17, 2002); *In re USG Corp.*, Case No. 01-2094 (RJN) (D. Del. June 27, 2001). Accordingly, the Court should authorize the Debtors' continued use of its existing cash management system.

C. Continued Use of Existing Business Forms

In several chapter 11 cases, courts have authorized debtors to continue using existing checks and business forms which do not include the legend “Debtor-in-Possession.” *See In re Johnson*, 106 B.R. 623, 624-625 (Bankr. D. Neb 1989) (imprinting “Debtor-in-Possession” on debtor checks not required where (i) third parties have constructive knowledge of case, and (ii) United States Trustee Guidelines do not constitute laws of the United States and are not legally binding on debtors); *In re Gold Standard Baking, Inc.*, 179 B.R. 98, 105-106 (Bankr. N.D. Ill. 1995) holding United States Trustee’s requirement prohibiting issuance of checks without “debtor-in-possession” designation to be unenforceable). Relief similar to that requested by Debtors was granted in the following cases: *In re Global Crossing Ltd.*, Case No. 02-40188 9REG) (Bankr. S.D.N.Y. Jan 28, 2002); *In re Enron Corp.*, Case No. 01-16033 (AJG) (Bankr. S.D.N.Y. Dec. 3, 2001); *In re Bethlehem Steel Corporation*, Case No. 01-15288 (BRL) (Bankr. S.D.N.Y. Oct. 15, 2001).

D. Continuation of Inter-company Transactions

Courts in other large chapter 11 cases have authorized debtors to continue existing inter-company funding practices postpetition. *See, e.g. In re Global Crossing Ltd.*, Case No. 02-40188 (REG) (Bankr. S.D.N.Y. Jan 28, 2003); *In re Singer Company*, Case No. 99-10578 (Bankr. S.D.N.Y. Nov 18, 1999).

E. Relief from Strict Compliance with 11 U.S.C. § 345(b)

Finally, cause exists for relief from strict compliance with the investment and deposit requirements of Section 345(b) of the Bankruptcy Code. Section 345 provides the guidelines for deposit or investment of the money of the estate by the trustee or debtor-in- possession. Pursuant to section 345(a) of the Bankruptcy Code, the debtor-in-possession is required to deposit or

invest money in order to maximize the reasonable net return while considering the safety of the deposit. 11 U.S.C. § 345(a). Pursuant to section 345(b) of the Bankruptcy Code, if a deposit or investment account is not federally insured, the trustee or debtor-in-possession is required to insure that the depository institution post a bond or make a deposit of securities as set forth in 31 U.S.C. § 9303.

A court may, however, relieve the debtor-in-possession of section 345(b)'s restriction for "just cause." 11 U.S.C. § 345(b). The Debtors believe that cause exists for relief from strict compliance with the investment and deposit requirements under section 345(b) of the Bankruptcy Code. The Debtors believe that all of the bank accounts maintained by debtors are with depository institutions insured by the FDIC or FSLIC. Accordingly, in the exercise of their business judgment, the Debtors believe that the funds of the estates are properly safeguarded when on deposit with their banks and the spirit of 11 U.S.C. § 345(b) is fully satisfied.

III. CONCLUSION

For the foregoing reasons, the Debtors respectfully request that this Court enter an order authorizing (a) continued maintenance of existing bank accounts; (b) continued use of existing cash management system; (c) continued use of existing business forms; (d) continuation of inter-company transactions; (e) relief from strict compliance with 11 U.S.C. §345(b); and (f) granting such further and other relief as it may deem just and proper.

Dated: _____, 2004

Respectfully Submitted,

DT INDUSTRIES, INC., ET AL.

By: _____ s/ Julia W. Brand
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